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EXAMINER

HUTTON JR, WILLIAM D

ART UNIT

PAPER NUMBER

2179

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/746,640

Applicant(s)

CAPPS ET AL.

Examiner

Doug Hutton

Art Unit

2179

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 and 35-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 and 35-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Applicant's Response

In Applicant's Response dated 3 September 2004, Applicant amended Claims 1, 13, 16, 25, 27 and 35-37, cancelled Claim 34, and argued against all objections and rejections previously set forth in the Office Action dated 4 June 2004.

The objections to Claims 13, 16, 25 and 27 are withdrawn.

Claim Objections

Claim 23 is objected to because of the following informalities:

- the number "18" in Line 1 should be amended to — 22 — because that is the claim from which Claim 23 should depend (Claim 22 recites a "remote parse event").

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 2, 4-8, 10, 12, 18-23 and 30-33 remain rejected under 35 U.S.C. 102(b) as being anticipated by Snell, *Sams Teach Yourself the Internet in 24 Hours, Third Edition*, Chapter 7 – “Playing Online Video, Music and Broadcasts” (Sams Publishing, June 1999).

Claim 1:

Snell discloses a computer-based implementable method of playing media designed for playing on various types of media players (see Pages 1-6), comprising:

- providing a universal media player that includes an media player interface with user actuable control buttons (see Figure 7.4 on Page 3);
- determining whether incoming media to be played is playable by the universal media player; and
 - if the incoming media to be played is playable by the universal media player, intercepting the incoming media and directing the incoming media to the universal media player; or
 - if the media to be played is not playable by the universal media player, allowing the incoming media to enable a default media player capable of playing the media (the cited figures and text disclose a computer system that reads on these limitations in that it shows that: 1) WINDOWS MEDIA PLAYER, the “universal media player,” plays most streaming media files; 2) REALPLAYER is another good media player that a user should have on his system; and 3) once the media players are installed on the system, the

appropriate player automatically opens anytime the user opens a corresponding media file).

Claim 2:

Snell discloses the method of Claim 1, wherein determining whether the incoming media to be played is playable by the universal media player comprises:

- determining the media type of the incoming media; and
- searching a table of media types to determine whether the media type of the incoming media is playable by the universal media player (the cited figures and text disclose these limitations in that it shows that the computer system includes two media players and each media player will automatically open anytime the user clicks on a corresponding media file).

Claim 4:

Snell discloses the method of Claim 1, wherein the incoming media include audio and video files (as indicated in the cited figures and text, Snell discloses this limitation).

Claim 5:

Snell discloses the method of Claim 1, further including cueing the media if the media is playable on the universal media player (the cited figures and text disclose this limitation in that every media file is ***inherently*** “cued” – before it is played on a proper media file – when it is being prepared for play by the media player).

Claim 6:

Snell discloses the method of Claim 1, wherein cueing the media includes instantiating a media component for the incoming media (the cited figures and text disclose this limitation in that the computer system – on which the media file is to be played – ***inherently*** instantiates a “media component” when the audio and video components of the system are prepared to play the media file).

Claim 7:

Snell discloses the method of Claim 1, wherein the incoming media is a download from a media server (as indicated in the cited figures and text, Snell discloses this limitation).

Claim 8:

Snell discloses the method of Claim 1, herein the incoming media results from a user clicking on a URL link to a server that stores media (as indicated in the cited figures and text, Snell discloses this limitation).

Claim 10:

Snell discloses the method of Claim 1, wherein the incoming media is controlled by a remote navigation event (the cited figures and text disclose this limitation in that the incoming media is “controlled” by the user clicking on a URL).

Claim 12:

Snell discloses the method of Claim 1, further comprising:

- determining whether the incoming media is ready to be played (the cited figures and text disclose this limitation in that the computer system ***inherently*** determines whether the incoming media is “ready to be played”);
- when the incoming media is ready to be played, initializing an idle media player (the cited figures and text disclose this limitation in that the computer system ***inherently*** initializes the media player when the incoming media is “ready to be played”); and
- directing the incoming media to the initialized idle media player (the cited figures and text disclose this limitation in that the computer system ***inherently*** “directs” the media to the media player).

Claim 18:

Snell discloses the method of Claim 1, further comprising:

- determining whether the incoming media is ready to be played (the cited figures and text disclose this limitation, as explained in the above rejection for Claim 12);
- when the incoming media is ready to be played, displaying an activated universal media player (the cited figures and text disclose this limitation in that the computer system ***inherently*** displays the media player when the incoming media is “ready to be played”); and

- in response to receiving a request from a user to play, the incoming media activating the universal media player to play the media (when the user hits the play button, the incoming media “activates” the media player to play the media).

Claims 19-23 and 30-32:

Each of these claims is for a basic function – such as changing the volume, changing the size, pausing and stopping – of a media player. Thus, Snell discloses every element of these claims (see Figures 12.10 and 12.11).

Claim 33:

Snell discloses a computer-readable medium containing computer-implementable instructions for performing the method of any one of Claims 1-32.

Claims 1-8, 10, 12, 18-23, 30-33 and 35-37 remain rejected under 35 U.S.C. 102(e) as being anticipated by Hayward, U.S. Patent Application Publication No. US 2004/0051812 A1.

Claim 1:

Hayward discloses a computer-based implementable method of playing media designed for playing on various types of media players (see Figures 1-5; see Paragraphs 0001-0066), comprising:

- providing a universal media player that includes an media player interface with user actuable control buttons;
- determining whether incoming media to be played is playable by the universal media player; and
 - if the incoming media to be played is playable by the universal media player, intercepting the incoming media and directing the incoming media to the universal media player; or
 - if the media to be played is not playable by the universal media player, allowing the incoming media to enable a default media player capable of playing the media (the cited figures and text disclose a computer system that reads on these limitations in that it makes known: 1) a system including WINDOWS MEDIA PLAYER, REALPLAYER and QUICKTIME Player, any of which could be considered the “universal media player;” 2) a user clicking on a link that connects the user’s system with a streaming media file that is accessed through an embedded media player page; 3) an embedded media player page that automatically loads the proper media player so that the corresponding streaming media file can be played).

Claim 2:

Hayward discloses the method of Claim 1, wherein determining whether the incoming media to be played is playable by the universal media player comprises:

- determining the media type of the incoming media (the computer system “determines the media type of the incoming media” in that it selects the proper media player to embed into the web page); and
- searching a table of media types to determine whether the media type of the incoming media is playable by the universal media player (the computer system discloses this limitation in that it automatically embeds the proper media player into the web page in order to play the corresponding media file).

Claim 3:

Hayward discloses the method of Claim 2, wherein the table of media types is a MIME table (the cited figures and text disclose this limitation in that the media files are in many different formats).

Claim 4:

Hayward discloses the method of Claim 1, wherein the incoming media include audio and video files (as indicated in the cited figures and text, Hayward discloses this limitation).

Claim 5:

Hayward discloses the method of Claim 1, further including cueing the media if the media is playable on the universal media player (the cited figures and text disclose

this limitation in that every media file is ***inherently*** “cued” – before it is played on a proper media file – when it is being prepared for play by the media player).

Claim 6:

Hayward discloses the method of Claim 1, wherein cueing the media includes instantiating a media component for the incoming media (the cited figures and text disclose this limitation in that the computer system – on which the media file is to be played – ***inherently*** instantiates a “media component” when the audio and video components of the system are prepared to play the media file).

Claim 7:

Hayward discloses the method of Claim 1, wherein the incoming media is a download from a media server (as indicated in the cited figures and text, Hayward discloses this limitation).

Claim 8:

Hayward discloses the method of Claim 1, wherein the incoming media results from a user clicking on a URL link to a server that stores media (as indicated in the cited figures and text, Hayward discloses this limitation).

Claim 10:

Hayward discloses the method of Claim 1, wherein the incoming media is controlled by a remote navigation event (the cited figures and text disclose this limitation in that the incoming media is “controlled” by the user clicking on a URL).

Claim 12:

Hayward discloses the method of Claim 1, further comprising:

- determining whether the incoming media is ready to be played (the cited figures and text disclose this limitation in that the computer system ***inherently*** determines whether the incoming media is “ready to be played”);
- when the incoming media is ready to be played, initializing an idle media player (the cited figures and text disclose this limitation in that the computer system ***inherently*** initializes the media player when the incoming media is “ready to be played”); and
- directing the incoming media to the initialized idle media player (the cited figures and text disclose this limitation in that the computer system ***inherently*** “directs” the media to the media player).

Claim 18:

Hayward discloses the method of Claim 1, further comprising:

- determining whether the incoming media is ready to be played (the cited figures and text disclose this limitation, as explained in the above rejection for Claim 12);

- when the incoming media is ready to be played, displaying an activated universal media player (the cited figures and text disclose this limitation in that the computer system *inherently* displays the media player when the incoming media is “ready to be played”); and
- in response to receiving a request from a user to play, the incoming media activating the universal media player to play the media (when the user hits the play button, the incoming media “activates” the media player to play the media).

Claims 19-23 and 30-32:

Every limitation of these claims a basic function – such as changing the volume, changing the size, pausing and stopping – of the media player system disclosed in Hayward, as specified in the cited figures and text.

Claim 33:

Hayward discloses a computer-readable medium containing computer-implementable instructions for performing the method of any one of Claims 1-32.

Claim 35:

Hayward discloses the computer program as claimed in Claim 34, wherein the other program is an Internet browser (as indicated in the cited figures and text, Hayward discloses this limitation).

Claim 36:

Hayward discloses the computer program as claimed in Claim 35, wherein the interface of the universal media player is located in a persistent region of the interface of the Internet browser (as indicated in the cited figures and text, Hayward discloses this limitation).

Claim 37:

Hayward discloses the computer program as claimed in Claim 36, wherein the interface of the Internet browser includes a frame and wherein the interface of the universal media player is located in the frame of the interface of the Internet browser (as indicated in the cited figures and text, Hayward discloses this limitation).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9 and 17 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Hayward, U.S. Patent Application Publication No. US 2004/0051812 A1, in view of Price, U.S. Patent Application Publication No. US 2002/0143973 A1.

Claim 9:

As indicated in the above discussion, Hayward discloses every element of Claim 7.

Hayward fails to expressly disclose a universal media player that also plays media produced by a media disc.

Price teaches a computer-based implementable method of playing media (see Figures 1-3; see Paragraphs 0001-0051), comprising:

- a universal media player that also plays media produced by a media disc (the cited figures and text disclose this limitation in that they show playback of “file based” media),

for the purpose of transmitting the streaming media file to multiple users at a higher data rate.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method, disclosed in Hayward, to include:

- a universal media player that also plays media produced by a media disc,
- for the purpose of transmitting the streaming media file to multiple users at a higher data rate, as taught by Price.

Claim 17:

As indicated in the above discussion, Hayward discloses every element of Claim 1 and determining whether the incoming media is ready to be played.

Hayward fails to expressly disclose:

- determining if the universal media player is remotely synchronized with another media player; and
- if the universal media player is remotely synchronized with another media player, sending a remote navigation event to the other media player.

Price teaches a computer-based implementable method of playing media (see Figures 1-3; see Paragraphs 0001-0051), comprising:

- determining if the universal media player is remotely synchronized with another media player (the cited figures and text disclose this limitation in that they show a media player at the source of the broadcast and remote media players at the client computers); and
- if the universal media player is remotely synchronized with another media player, sending a remote navigation event to the other media player (the cited figures and text disclose this limitation in that they show a source media player and system that broadcasts the media to the remote media players at the client computers),

for the purpose of allowing multiple users to simultaneously view the same streaming media file.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method, disclosed in Hayward, to include:

- determining if the universal media player is remotely synchronized with another media player; and
- if the universal media player is remotely synchronized with another media player, sending a remote navigation event to the other media player,

for the purpose of allowing multiple users to simultaneously view the same streaming media file, as taught by Price.

Claim 11 remains rejected under 35 U.S.C. 103(a) as being unpatentable over Hayward, U.S. Patent Application Publication No. US 2004/0051812 A1, in view of Murphy, U.S. Patent No. 6,564,380.

Claim 11:

As indicated in the above discussion, Hayward discloses every element of Claim 1. Hayward also discloses a universal media player that plays media in a plurality of forms (SMIL files, audio files, video files, REALAUDIO files, WINDOWS MEDIA files, etc.).

Hayward fails to expressly disclose:

- media in the form of a video telephone call.

Murphy teaches a computer-based implementable method of playing media designed for playing on various types of media players (see Figures 1-11; see Column 1, Line 1 through Column 22, Line 2), comprising:

- a media player that plays media in the form of a video telephone call, for the purpose of facilitating online customer service.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method, disclosed in Hayward, to include:

- a universal media player that plays media in the form of a video telephone call, for the purpose of facilitating online customer service, as taught by Murphy.

Claim 13 remains rejected under 35 U.S.C. 103(a) as being unpatentable over Hayward, U.S. Patent Application Publication No. US 2004/0051812 A1, in view of Cowart et al., Special Edition Using Microsoft Windows 2000 Professional, Chapter 12 – “*World Wide Web*” (Que Corporation, February 2000).

Claim 13:

As indicated in the above discussion, Hayward discloses every element of Claim 12.

Hayward fails to expressly disclose:

- displaying an idle media player interface prior to when the incoming media is ready to be played.

Cowart teaches a computer-based implementable method of playing media designed for playing on various types of media players (see Pages 1-8), comprising:

- displaying an idle media player interface prior to when the incoming media is ready to be played,

for the purpose of demonstrating to the user that the media file playback process has begun.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method, disclosed in Hayward, to include:

- displaying an idle media player interface prior to when the incoming media is ready to be played,

for the purpose of demonstrating to the user that the media file playback process has begun, as taught by Cowart.

Claims 14 and 16 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Hayward, U.S. Patent Application Publication No. US 2004/0051812 A1, in view of Smith et al., U.S. Patent Application Publication No. US 2002/0133247 A1.

Claim 14:

As indicated in the above discussion, Hayward discloses every element of Claim 1 and determining whether the incoming media is ready to be played.

Hayward fails to expressly disclose:

- determining whether a current media player is playing media;
- when the incoming media is ready to be played, if a current media player is playing media, stopping and hiding the current media player and initializing an idle media player; and
- directing the incoming media to the initialized idle media player.

Smith teaches a computer-based implementable method of playing media designed for playing on various types of media players (see Figures 1-5; see Paragraphs 0001-0063), comprising:

- determining whether a current media player is playing media (the cited figures and figures and text disclose this limitation in that it shows that the computer system includes a foreground media player that plays a first media stream);
- when the incoming media is ready to be played, if a current media player is playing media, stopping and hiding the current media player and initializing an idle media player (the cited figures and figures and text disclose this limitation in that it shows that the computer system includes a background media player that receives a second media stream and replaces the foreground media player); and
- directing the incoming media to the initialized idle media player (the cited figures and figures and text disclose this limitation in that it shows that the computer system includes a background media player that plays a second media stream),

for the purpose of allowing the user to experience uninterrupted play of multiple media streams.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method, disclosed in Hayward, to include:

- determining whether a current media player is playing media;
- when the incoming media is ready to be played, if a current media player is playing media, stopping and hiding the current media player and initializing an idle media player; and
- directing the incoming media to the initialized idle media player,

for the purpose of allowing the user to experience uninterrupted play of multiple media streams, as taught by Smith.

Claim 16:

Hayward fails to disclose:

- in response to determining that the incoming media is not ready to be played, if a current media player is playing the media, allowing the current media to continue playing media until the incoming media is ready to be played.

Smith teaches:

- in response to determining that the incoming media is not ready to be played, if a current media player is playing the media, allowing the current media to continue playing media until the incoming media is ready to be played (the cited figures and text disclose this limitation in that it shows that the computer system includes

a foreground media player that continues to play the first media stream until the background media player is ready to play the second media stream), for the purpose of allowing the user to experience uninterrupted play of multiple media streams.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method, disclosed in Hayward, to include:

- in response to determining that the incoming media is not ready to be played, if a current media player is playing the media, allowing the current media to continue playing media until the incoming media is ready to be played,

for the purpose of allowing the user to experience uninterrupted play of multiple media streams, as taught by Smith.

Claim 15 remains rejected under 35 U.S.C. 103(a) as being unpatentable over Hayward, U.S. Patent Application Publication No. US 2004/0051812 A1, in view of Hunt et al., U.S. Patent Application Publication No. US 2003/0072299 A1.

Claim 15:

As indicated in the above discussion, Hayward discloses every element of Claim 1. Hayward also discloses determining whether the incoming media is ready to be played, as indicated in the above discussion.

Hayward fails to expressly disclose:

- determining whether a time to establish connection has timed out.

Hunt teaches a computer-based implementable method of displaying media (see Figures 1-12; see Paragraphs 0001-0078), comprising:

- determining whether a time to establish connection has timed out,

for the purposes of conserving network bandwidth, improving transmission time and reducing loads placed on network servers.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method, disclosed in Hayward, to include:

- a universal media player that plays media in the form of a video telephone call,

for the purposes of conserving network bandwidth, improving transmission time and reducing loads placed on network servers, as taught by Hunt.

Claims 24-29 remain rejected under 35 U.S.C. 103(a) as being unpatentable over Hayward, U.S. Patent Application Publication No. US 2004/0051812 A1, in view of Atkinson, U.S. Patent Application Publication No. US 2002/0120879 A1.

Claims 24-29:

These claims essentially recite changing the tracks of a compact disc or DVD. Thus, these claims will be grouped into a single rationale for rejection purposes.

As indicated in the above discussion, Hayward discloses every element of Claim 18.

Hayward fails to expressly disclose:

- changing the track of the media in response to receiving a request to change the track.

Atkinson teaches a computer-based implementable method of playing media (see Figures 1-2; see Paragraphs 0001-0101), comprising:

- changing the track of the media in response to receiving a request to change the track,

for the purpose of controlling the order in which the media is played.

Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the method, disclosed in Hayward, to include:

- changing the track of the media in response to receiving a request to change the track,

for the purpose of controlling the order in which the media is played, as taught by Atkinson.

Response to Arguments

Applicant's arguments filed 3 September 2004 have been fully considered but they are not persuasive.

Applicant's Arguments for Claims 1, 2, 4-8, 10, 12, 18-23 and 30-33 in regard to Snell:

Applicant argues that Snell fails to disclose the limitations of Claim 1 because Snell does not teach a "universal" media player. Applicant states that it cannot locate any "pertinent subject matter" in the cited portions of Snell. Applicant further states that fails to disclose a universal media player that helps a user navigate between different media sources without downloading different media players. See *Applicant's Response*, Page 11, third full paragraph, first through fourth sentences.

The examiner disagrees.

Firstly, Applicant's argument fails to comply with 37 CFR 1.111(b) because it amounts to a general allegation that the claim defines a patentable invention without specifically pointing out how the language of the claim patentably distinguishes it from the reference. Simply stating that a certain limitation of a claim is not disclosed in the cited reference with no analysis of how the specific language of the limitation is distinguishable from the subject matter disclosed in the cited reference fails to meet the requirement of 37 CFR 1.111(b) that Applicant "specifically [point] out how the language of the claims patentably distinguishes them from the references." The Office Action clearly states that WINDOWS MEDIA PLAYER is a "universal" media player because it plays media files in several different formats. Applicant failed to specifically respond to this observation. Instead, Applicant simply argues, "it's not there."

Secondly, as stated in the above rejection for Claim 1, Snell discloses that WINDOWS MEDIA PLAYER plays "nearly all audio and video file types" (see Snell, sixth paragraph on Page 2 of 6). Snell also discloses that WINDOWS MEDIA PLAYER

plays “most popular streaming audio and video types currently in use” (see Snell, first sentence on Page 4 of 6). Thus, WINDOWS MEDIA PLAYER is a “universal” media player.

Applicant further argues that Snell fails to disclose the limitations of Claim 1 because Snell does not teach determining whether an incoming media to be played is playable by a universal media player. Applicant also argues that Snell fails to teach allowing the incoming media to enable a default media player capable of playing the media if the incoming media to be played is not playable by the universal media player. Instead, Applicant argues, Snell teaches that the computer automatically selects the appropriate media file based on the file type of the downloaded media file. See *Applicant's Response*, Page 11, third full paragraph, sixth sentence through Page 12, first partial paragraph, first complete sentence.

The examiner disagrees.

As Applicant stated in its argument, Snell discloses that once the media players are installed on the system, the appropriate player automatically opens anytime the user opens a corresponding media file (see Snell, sixth paragraph on Page 4 of 6). Thus, WINDOWS MEDIA PLAYER, the “universal” media player, plays the incoming media file if the media file is playable by WINDOWS MEDIA PLAYER. However, if the media file is not playable by WINDOWS MEDIA PLAYER (for example, a streaming media format that is not playable by WINDOWS MEDIA PLAYER but is playable by

REALPLAYER), then the computer automatically opens the appropriate media player. Limitations (b), (b)(i) and (b)(ii) read on this disclosure in Snell.

The examiner notes that Applicant appears to argue that Snell fails to disclose the **exact** wording of these limitations in Claim 1. The examiner admits that this exact wording is not expressly disclosed in Snell. However, this fact does not make Claim 1 patentable. As clearly explained in the above discussion, these limitations read on the subject matter disclosed in Snell.

In regard to Claim 2, Applicant argues that Snell fails to disclose the limitations of Claim 2 because Snell does not teach determining the media type of the incoming media and searching a table of media types. Applicant further states that, even if determining the media type of the incoming media is implied, Snell does not teach using a table of media types "to determine the media type." See *Applicant's Response*, Page 12, first full paragraph, third through ninth sentences.

The examiner disagrees.

Firstly, Applicant's argument fails to comply with 37 CFR 1.111(b) because it amounts to a general allegation that the claim defines a patentable invention without specifically pointing out how the language of the claim patentably distinguishes it from the reference. Simply stating that a certain limitation of a claim is not disclosed in the cited reference with no analysis of how the specific language of the limitation is distinguishable from the subject matter disclosed in the cited reference fails to meet the requirement of 37 CFR 1.111(b) that Applicant "specifically [point] out how the language

of the claims patentably distinguishes them from the references.” Again, Applicant simply argues, “it’s not there.”

Secondly, Snell discloses “determining the media type of the incoming media” in that, as explained above and admitted by Applicant, the computer determines whether the “universal” media player can play the incoming media. Thus, in making this determination, the computer determines the media type of the incoming media.

Thirdly, in response to Applicant's argument that the Snell fails to teach using a table of media types “to determine the media type,” it is noted that this feature is not recited in the rejected claim. Rather, the limitation reads: “searching a table of media types to determine whether the media type of the incoming media is playable by the universal media player” (see Claim 2, Lines 4-5). Snell discloses this limitation in that the computer determines whether the “universal” media player can play the incoming media. The computer could not make this determination without knowing which media files are playable by the “universal” media player. Thus, the computer includes a “table” of media types playable by the “universal” media player, and it searches this table to determine whether the “universal” media player can play the incoming media.

The examiner notes that Applicant appears to argue that Snell fails to disclose the **exact** wording of these limitations in Claim 2. The examiner admits that this exact wording is not expressly disclosed in Snell. However, this fact does not make Claim 2 patentable. As clearly explained in the above discussion, these limitations read on the subject matter disclosed in Snell.

Applicant's Arguments for Claims 1-8, 10, 12, 18-23 and 30-37 in regard to Hayward:

Applicant argues that Hayward fails to disclose the limitations of Claim 1 because Hayward does not teach: 1) a universal media player with an interface having user actuable buttons; 2) determining whether an incoming media is playable by the universal media player; and 3) a default media player capable of playing the incoming media if the incoming media is not playable by the universal media player. Instead, Applicant argues, Hayward teaches transmitting to a client system an embedded media player page for playing the media file and collecting data from the use of the embedded media player. See *Applicant's Response*, Page 12, fourth full paragraph, third through sixth sentences.

The examiner disagrees.

Firstly, Applicant's argument fails to comply with 37 CFR 1.111(b) because it amounts to a general allegation that the claim defines a patentable invention without specifically pointing out how the language of the claim patentably distinguishes it from the reference. Simply stating that certain limitations of a claim are not disclosed in the cited reference with no analysis of how the specific language of each limitation is distinguishable from the subject matter disclosed in the cited reference fails to meet the requirement of 37 CFR 1.111(b) that Applicant "specifically [point] out how the language of the claims patentably distinguishes them from the references." Again, Applicant simply argues, "it's not there."

Secondly, Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims

present in view of the state of the art disclosed by the references cited or the objections made. Applicant provides no analysis of any limitation in view of the subject matter disclosed in the cited reference. Instead, Applicant lists every limitation recited in Claim 1 and simply states, "it's not there."

Thirdly, Hayward discloses streaming media files in the REALAUDIO, REALVIDEO, MICROSOFT WINDOWS MEDIA FORMAT, FLASH, APPLE QUICKTIME, MPEG-2 Layer II Audio and MP3 formats (see Page 2, Paragraph 0022). Hayward also discloses a user conducting a search for media files comprising particular content and clicking on one of the hyperlinked results (see Page 3, Paragraphs 0027-0028). Finally, Hayward discloses an embedded media player page that includes a media player with an interface having user actuable buttons (see element 202, Figure 2; see Page 3, Paragraphs 0030-0031). The media player is automatically selected based on the format of the media file.

Thus, the system of Hayward includes WINDOWS MEDIA PLAYER, REALPLAYER and QUICKTIME Player, any of which could be considered the "universal media player." Further, the system will select an appropriate "default" media player to play the incoming media file, if the incoming media file is not playable by the "universal" media player.

Accordingly, Hayward discloses: 1) a universal media player with an interface having user actuable buttons; 2) determining whether an incoming media is playable by the universal media player; and 3) a default media player capable of playing the incoming media if the incoming media is not playable by the universal media player.

In regard to Claim 2, Applicant argues that Hayward fails to disclose the limitations of Claim 2 because Hayward does not teach determining the media type of the incoming media and searching a table of media types to determine whether the media type of the incoming media is playable by the universal media player. Applicant observes that Hayward seems to teach automatically embedding the proper media player into a web page and transmitting the embedded media player page to the client system in order to play the corresponding media file. Applicant further states that Hayward simply does not mention the use of a table of media types. See *Applicant's Response*, Page 13, first full paragraph, third through ninth sentences.

The examiner disagrees.

As stated by Applicant, Hayward discloses automatically embedding the proper media player into a web page and transmitting the embedded media player page to the client system in order to play the corresponding media file. Thus, Hayward discloses "determining the media type of the incoming media" in that the computer system determines which media player can play the incoming media. In making this determination, the computer determines the media type of the incoming media. Furthermore, if two or more media players are capable of playing the incoming media file, then the computer system will select only one of the media players to play the incoming media. The selected media player is the "universal" media player.

Hayward discloses "searching a table of media types to determine whether the media type of the incoming media is playable by the universal media player" in that the computer system determines whether the "universal" media player can play the

incoming media. The computer system could not make this determination without knowing which media files are playable by the “universal” media player. Thus, the computer system includes a “table” of media types playable by the “universal” media player, and it searches this table to determine whether the “universal” media player can play the incoming media.

The examiner notes that Applicant appears to argue that Hayward fails to disclose the **exact** wording of these limitations in Claim 2. The examiner admits that this exact wording is not expressly disclosed in Hayward. However, this fact does not make Claim 2 patentable. As clearly explained in the above discussion, these limitations read on the subject matter disclosed in Hayward.

In regard to Claim 3, Applicant argues that Hayward fails to disclose the limitations of Claim 3 because Hayward does not teach a MIME table. Applicant observes that there is no logical connection between Hayward’s teaching that the media files are in many different formats and disclosure of a MIME table of media types. See *Applicant’s Response*, Page 13, second full paragraph, third through seventh sentences.

The examiner disagrees.

As indicated in the above discussion, Hayward discloses “searching a table of media types to determine whether the media type of the incoming media is playable by the universal media player.” This “table” disclosed in Hayward is a “MIME” table in that, in order to determine which media player to select for the incoming media, the computer

system checks the extension of the incoming media file after the user clicks on the media file hyperlink. MIME is part of HTTP, and the extension of the URL for the media file hyperlink identifies the media type of the incoming media file. Accordingly, Hayward discloses a "MIME" table.

Applicant's Arguments for Claims 9 and 17 in regard to Hayward, in view of Price:

Applicant argues that Price fails to disclose the limitations of Claim 9 because Price does not teach "media produced by a media disc." Applicant further argues that there is no motivation to combine Hayward and Price. Finally, Applicant argues that, if Hayward and Price were combined, the resulting combination would not disclose the limitations of Claim 9. See *Applicant's Response*, Page 13, third and fourth full paragraphs.

Firstly, Applicant's argument fails to comply with 37 CFR 1.111(b) because it amounts to a general allegation that the claim defines a patentable invention without specifically pointing out how the language of the claim patentably distinguishes it from the reference. Simply stating that certain limitations of a claim are not disclosed in the cited reference with no analysis of how the specific language of each limitation is distinguishable from the subject matter disclosed in the cited reference fails to meet the requirement of 37 CFR 1.111(b) that Applicant "specifically [point] out how the language of the claims patentably distinguishes them from the references." Again, Applicant simply argues, "it's not there."

Secondly, Price expressly teaches that there are two fundamental types of streaming media: 1) material that originates from a source having a real-time nature; and 2) material that originates from a non-real-time source, such as from a disk file (see Page 2, Paragraph 0011). The second fundamental type of streaming media equals "media produced by a media disc."

In response to Applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, as stated in the above discussion, Price expressly teaches downloading media from a server and downloading media from a disc. A computer user would use a disc to download the media, rather than downloading the media from a server, because downloading from a disc would be much faster. Thus, in light of the teaching of Price and the disclosure of Hayward, it would have been obvious to one of ordinary skill in the art to incorporate a media player that also plays media produced by a media disc into the universal media player disclosed in Hayward for the purpose of downloading the media at a faster data rate.

In response to Applicant's argument that the combination of Hayward and Price would not disclose the limitations of Claim 9, the test for obviousness is not whether the

features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). As clearly indicated in the above discussion, the combined teachings of Hayward and Price would have suggested every limitation of Claim 9.

Applicant argues that Price fails to disclose the limitations of Claim 17 because Price does not teach: 1) synchronizing one universal media player with another media player; 2) sending a remote navigation event to the other media player upon deciding that one universal media player is remotely synchronized with the other media player. Applicant further argues that there is no motivation to combine Hayward and Price. Finally, Applicant argues that, if Hayward and Price were combined, the resulting combination would not disclose the limitations of Claim 17. See *Applicant's Response*, Page 13, first and second full paragraphs.

Firstly, Applicant's arguments do not comply with 37 CFR 1.111(c) because they do not clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Applicant provides no analysis of any limitation in view of the subject matter disclosed in the cited reference. The Office Action clearly states the examiner's interpretation of the subject matter taught in Price and a motivation for combining it with Hayward. Applicant

failed to specifically respond to this observation. Instead, Applicant lists every limitation recited in Claim 17 and simply states, "it's not there."

Secondly, the Specification of the present invention states:

"A remote navigation event occurs when two media players are synchronized together. In one form, one computer is the server while the other computer is dependent upon the other. This allows both users to browse and to simultaneously play the same media stream provided by a remote source. Alternatively, the one media player can function as the media source and the other media player receive media being played by the source media player." See Page 13, Lines 2-8.

This language in the Specification very broadly defines the terms used in the limitations of Claim 17. Price expressly teaches a computer system comprising multiple user computers viewing the same incoming media file at the same time (see elements 12 and 18, Figure 1; see Page 5, Paragraph 0039; see elements 28, 12 and 18, Figure 2; see Page 6, Paragraph 0048). Thus, Price teaches "synchronizing one universal media player with another media player." Also, Price teaches "sending a remote navigation event to the other media player upon deciding that one universal media player is remotely synchronized with the other media player" in that the server sends the media file to the remote user computers when the remote user computers have accessed the server and requested the media file.

In response to Applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by

combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, as stated in the above discussion, Price expressly teaches the limitations of Claim 17. Computer users would “synchronize” media players and send a “remote navigation event” from one media player to another for the purpose of allowing multiple users to simultaneously view the same streaming media file, as taught by Price. Thus, Price provides proper motivation to combine teachings of Price and the disclosure of Hayward.

In response to Applicant's argument that the combination of Hayward and Price would not disclose the limitations of Claim 17, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). As clearly indicated in the above discussion, the combined teachings of Hayward and Price would have suggested every limitation of Claim 17.

Applicant's Arguments for Claim 11 in regard to Hayward, in view of Murphy:

Applicant argues that Murphy fails to disclose the limitations of Claim 11 because Murphy does not teach a universal media player. Applicant further argues that there is no motivation to combine Hayward and Murphy. Finally, Applicant argues that, if Hayward and Murphy were combined, the resulting combination would not disclose the limitations of Claim 11. See *Applicant's Response*, Page 15, fourth paragraph, fifth sentence through Page 16, first full paragraph.

The examiner disagrees.

As explained in the above rejection for Claim 1, Hayward discloses a "universal" media player. Thus, Murphy is not needed or used for teaching a "universal" media player. Instead, as pointed out in the above rejection for Claim 11, Murphy is used only to teach a media player that plays media in the form of a video telephone call.

In response to Applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, as stated in the above discussion, Murphy expressly teaches the limitations of Claim 11. One of the numerous practical reasons for having a media player that plays media in the form of a video telephone call is taught by Murphy – facilitating online customer service. Thus,

Murphy provides proper motivation to combine teachings of Murphy and the disclosure of Hayward.

In response to Applicant's argument that the combination of Hayward and Murphy would not disclose the limitations of Claim 17, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). As clearly indicated in the above discussion, the combined teachings of Hayward and Murphy would have suggested every limitation of Claim 11.

Applicant's Arguments for Claim 13 in regard to Hayward, in view of Cowart:

Applicant argues that Cowart fails to disclose the limitations of Claim 13 because Cowart does not teach a universal media player. Applicant further argues that Cowart fails to disclose determining whether the incoming media is playable by the universal media player and enabling a default media player if the answer is negative. Finally, Applicant states that Cowart seems to teach displaying an idle media player interface prior to when the incoming media is ready to be played. See *Applicant's Response*, Page 16, fourth full paragraph.

The examiner disagrees.

As explained in the above rejection for Claim 1, Hayward discloses a “universal” media player, determining whether the incoming media is playable by the universal media player and enabling a default media player if the answer is negative. Thus, Cowart is not needed or used for teaching these limitations. As pointed out in the above rejection for Claim 13, Cowart is used only to teach displaying an idle media player interface prior to when the incoming media is ready to be played. Applicant acknowledges that Cowart teaches this limitation in its comments (see *Applicant’s Response*, Page 16, fourth full paragraph, fourth sentence).

Applicant’s Arguments for Claims 14 and 16 in regard to Hayward, in view of Smith:

Applicant argues that Smith fails to disclose the limitations of Claims 14 and 16 because Smith does not teach a universal media player. Applicant further argues that Smith fails to disclose determining whether the incoming media is playable by the universal media player and enabling a default media player if the answer is negative. Finally, Applicant argues that, if Hayward and Smith were combined, the resulting combination would not disclose the limitations of Claims 14 and 16. See *Applicant’s Response*, Page 17, first partial paragraph, first sentence through first full paragraph.

The examiner disagrees.

As explained in the above rejection for Claim 1, Hayward discloses a “universal” media player, determining whether the incoming media is playable by the universal media player and enabling a default media player if the answer is negative. Thus, Smith is not needed or used for teaching these limitations. As pointed out in the above

rejections for Claims 14 and 16, Smith is used only to teach the limitations that are recited in Claims 14 and 16.

In response to Applicant's argument that the combination of Hayward and Smith would not disclose the limitations of Claims 14 and 16, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). As clearly indicated in the above discussion, the combined teachings of Hayward and Smith would have suggested every limitation of Claims 14 and 16.

Applicant's Arguments for Claim 15 in regard to Hayward, in view of Hunt:

Applicant argues that Hunt fails to disclose the limitations of Claim 15. To support of this argument, Applicant makes a few general comments about the general disclosure of Hunt and tries to contrast those general statements with a general statement regarding the general disclosure of the present invention. Applicant further argues that there is no motivation to combine Hayward and Hunt. Finally, Applicant argues that, if Hayward and Hunt were combined, the resulting combination would not disclose the limitations of Claim 15. See *Applicant's Response*, Page 17, third full paragraph, third sentence through Page 18, first full paragraph.

The examiner disagrees.

Firstly, Applicant's argument fails to comply with 37 CFR 1.111(b) because it amounts to a general allegation that the claim defines a patentable invention without specifically pointing out how the language of the claim patentably distinguishes it from the reference. Simply stating that certain limitations of a claim are not disclosed in the cited reference with no analysis of how the specific language of each limitation is distinguishable from the subject matter disclosed in the cited reference fails to meet the requirement of 37 CFR 1.111(b) that Applicant "specifically [point] out how the language of the claims patentably distinguishes them from the references." Again, Applicant simply argues, "it's not there."

Secondly, as clearly explained in the above rejection for Claim 15, Hunt teaches the limitations of Claim 15 and provides motivation to combine the teachings of Hunt with the disclosure of Hayward. The examiner will not repeat the explanation here.

Thirdly, in response to Applicant's argument that the combination of Hayward and Hunt would not disclose the limitations of Claim 15, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). As clearly indicated in the above discussion, the combined teachings of Hayward and Hunt would have suggested every limitation of Claim 15.

Applicant's Arguments for Claims 24-29 in regard to Hayward, in view of Atkinson:

Applicant argues that there is no motivation to combine Hayward and Atkinson. Applicant further argues that, if Hayward and Atkinson were combined, the resulting combination would not disclose the limitations of Claims 24-29. See *Applicant's Response*, Page 1, fourth full paragraph.

The examiner disagrees.

Firstly, Applicant's argument fails to comply with 37 CFR 1.111(b) because it amounts to a general allegation that the claim defines a patentable invention without specifically pointing out how the language of the claim patentably distinguishes it from the reference. Simply stating that certain limitations of a claim are not disclosed in the cited reference with no analysis of how the specific language of each limitation is distinguishable from the subject matter disclosed in the cited reference fails to meet the requirement of 37 CFR 1.111(b) that Applicant "specifically [point] out how the language of the claims patentably distinguishes them from the references." Again, Applicant simply argues, "it's not there."

Secondly, as clearly explained in the above rejections for Claims 24-29, Atkinson teaches the limitations of Claims 24-29 and provides motivation to combine the teachings of Atkinson with the disclosure of Hayward. The examiner will not repeat the explanation here.

Thirdly, in response to Applicant's argument that the combination of Hayward and Atkinson would not disclose the limitations of Claims 24-29, the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the

structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981). As clearly indicated in the above discussion, the combined teachings of Hayward and Atkinson would have suggested every limitation of Claims 24-29.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Doug Hutton whose telephone number is (571) 272-4137. The examiner can normally be reached on Monday-Friday from 8:00 AM to 5:00 PM.

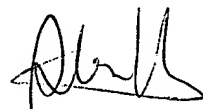
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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Herndon, can be reached at (571) 272-4136. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

WDH

November 3, 2004

A handwritten signature in black ink, appearing to read 'S. Hong', with a stylized flourish at the end.

**STEPHEN S. HONG
PRIMARY EXAMINER**